

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

LEHMAN ELLIS

PLAINTIFF

V.

CIVIL ACTION NO. 3:09cv32-DPJ-JCS

UNITED PARCEL SERVICE  
FREIGHT, ET AL.

DEFENDANTS

ORDER OF DISMISSAL

This matter is before the Court *sua sponte* to consider dismissal of this action pursuant to Rule 41(b) of the Federal Rules of Civil Procedure due to Plaintiff's failure to prosecute and failure to comply with the previous orders of this Court.

Plaintiff filed the Complaint in January 2009. On September 23, 2009, Magistrate Judge James C. Sumner entered an order granting a motion by Plaintiff's counsel to withdraw. The order informed Plaintiff that he had twenty days to find new counsel or to inform the Court in writing that he wishes to proceed pro se. He has done neither. On October 21, 2009, the Court ordered Plaintiff to show cause why this action should not be dismissed and required that he respond to the Court's order by November 10. To date, Plaintiff has not responded to this Court's order.

This Court has the authority under Rule 41(b) of the Federal Rules of Civil Procedure and under its inherent authority to dismiss this action for Plaintiff's failure to prosecute and failure to comply with orders of the Court. *See Link v. Wabash R.R.*, 370 U.S. 626 (1962); *Larson v. Scott*, 157 F.3d 1030 (5th Cir. 1998); *McCullough v. Lynaugh*, 835 F.2d 1126 (5th Cir. 1988). Such a "sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars" of the Court. *Link*, 370 U.S. at 629-30.

IT IS, THEREFORE, ORDERED that this case is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b) and the Court's inherent authority.

**SO ORDERED AND ADJUDGED** this the 20<sup>th</sup> day of November, 2009.

s/ Daniel P. Jordan III  
UNITED STATES DISTRICT JUDGE